

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

NICHOLAS REY RIOS,

Defendants.

CR-14-48-GF-BMM

ORDER

Defendant Nicholas Rey Rios moved for early termination of his supervised release on February 13, 2019. (Doc. 68.) The Government does not oppose the motion. The Court conducted a hearing on February 19, 2019.

The Grand Jury indicted Rios on two counts: Possession with Intent to Distribute Methamphetamine in violation of 21 U.S.C. § 841(a)(1) (Count I) and Distribution of Methamphetamine in violation of 21 U.S.C. § 841(a)(1) (Count II). (Doc. 1.) Rios pleaded guilty to Possession with Intent to Distribute Methamphetamine as charged in Count I of the Indictment. (Doc. 36.) Rios was sentenced to thirty months imprisonment followed by a three-year term of supervised release. (Doc. 49.)

Rios began his initial term of supervised release on December 9, 2016. (Doc. 69 at 2.) The United States Probation Office (“USPO”) notified the Court on December 20, 2016, that Rios had tested positive for methamphetamine. *Id.* The Court and USPO agreed to warn Rios and increase Rios restrictions rather than revoke Rios’s supervised release. *Id.* Rios subsequently failed to report to substance abuse testing on January 3, 2017. *Id.* Rios further tested positive for methamphetamine on January 27, 2017. *Id.* The Court and USPO again agreed not to revoke Rios supervised release. *Id.*

USPO filed a petition to revoke Rios’s supervised release on March 31, 2017. (Doc. 55.) Rios admitted that he snorted a line of methamphetamine in violation of his conditions of supervised release. (Doc. 63 at 3.) Judge Johnston recommended that the Court revoke Rios’s supervised release and incarcerate Rios until June 4, 2017, with a period of supervision to follow. *Id.* at 3-4. The Court adopted Judge Johnston’s Findings and Recommendations on June 2, 2017. (Doc. 64.)

Rios’s urine tested positive for methamphetamine on January 13, 2018. (Doc. 67 at 2.) Rios admitted to using methamphetamine. *Id.* Rios subsequently participated in a noncompliance hearing with USPO Eric Buehler and USPO Jessica Heim. *Id.* USPO Heim recommended no action be taken for Rios’s violation of his supervised release condition as Rios was easy to work with and

was maintaining a full-time job. *Id.* The Court agreed that no action shall be taken. *Id.* at 3. Rios's supervision is set to expire on December 8, 2019. (Doc. 69 at 3.)

Rios has complied with his conditions since January 14, 2018. *See* (Doc. 69 at 3.) A defendant, who has completed successfully one year of his supervision, is authorized to move for termination of his supervised release. 18 U.S.C. §§ 3564(c), 3583(e)(1). The Court has "broad discretion in determining whether to grant a motion to terminate supervised release." *United States v. Emmett*, 749 F.3d 817, 819 (9th Cir. 2014). Notably, the Court may terminate a defendant's supervision, if after looking at the 18 U.S.C. § 3553(a) factors, the Court finds that termination is "warranted by the conduct of the defendant and the interests of justice." 18 U.S.C. § 3564(c); *see also* 18 U.S.C. § 3583(e)(1).

Rios has attended and completed Intensive Outpatient group. (Doc. 69-1 at 1.) Rios has been embraced by his community. He was invited to speak to fifth and sixth graders at Northside School in Wolf Point about the importance of education and the importance of developing skills to obtain gainful employment. (Doc. 69-1 at 9.) Rios continues to work hard and stay sober for himself and his three daughters. (Doc. 69-1 at 5.) Rios is currently co-manager of the Wolf Point Town Pump. *Id.* Several of Rios co-workers commend Rios for his strong work ethic, his timeliness, his willingness to always help others, his willingness to cover shifts, his

kindness, and his ability to be responsible. (Doc. 69-1 at 3-4, 6-8.) The Court finds that early termination of Rios's supervised release serves the interests of justice.

Accordingly, **IT IS ORDERED:**

1. Rios's Motion for Early Termination of Supervised Release (Doc. 68) is **GRANTED**.

2. Rios is **DISCHARGED** from supervised release.

DATED this 19th day of February, 2019.



Brian Morris
United States District Court Judge